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Public Record

May 25, 2010

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

VIA ELECTRONIC FILING

Re: STB Finance Docket No. 35141
U S Rail Corporation – Construction and Operation Exemption –
Brookhaven Rail Terminal

Dear Ms. Brown,

Please accept this letter supplementing the petition filed August 8, 2008 by U S Rail Corporation ("U S Rail") in this proceeding to include the accompanying site layout plan ("site plan") dated June 15, 2009 as Exhibit C-1, the February 1, 2010 verified statement of Paul F. Stevens ("Stevens VS") as Exhibit C-2, and the May 25, 2010 verified statement of Gerard F. Drumm ("Drumm VS") as Exhibit C-3.

Exhibit C-1 incorporates all revisions to date of the August 2007 site plan filed by U S Rail as Exhibit C in support of the August 8, 2008 petition. The updated site plan includes revisions made by petitioner at the request of the Town of Brookhaven ("Brookhaven") and the Long Island Power Authority ("LIPA"). See, Drumm VS at 4.

The revised site plan has been approved by Brookhaven. On April 3, 2010 Brookhaven filed a motion withdrawing its opposition to the BRT, stating,

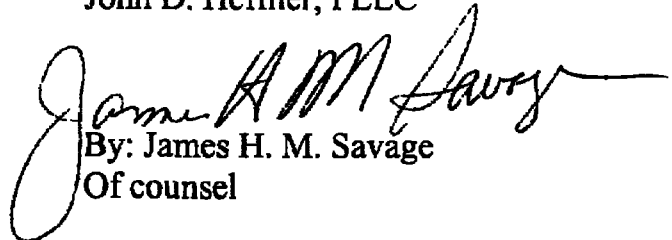
“Brookhaven believes that the changes to the Project plans incorporated by the Petitioner at the Town’s request...adequately address the concerns raised by the Town at an earlier stage of this proceeding.” See, Filing ID No. 226757. [Emphasis supplied.]

The changes to the site plan propose an additional 7,000 feet of track, entirely within the original site footprint, to accommodate rail car storage and bulk commodity transloading. The revised site layout is highly superior to the original insofar as it permits the elimination of a previously proposed grade separated site entrance. The updated plan also provides for a lengthy screening wall, additional landscaping, and an emergency access to the Long Island Expressway service road in response to Brookhaven requests. Utility pole elevations were added after discussions with LIPA’s representatives. See, Drumm VS at 4.

In conjunction with the Section of Environmental Analysis (“SEA”) ongoing environmental assessment, petitioner has supplied Exhibit C-1 to the Board’s third-party environmental consultant Gannett Fleming, Inc.

We thank the Board for its time and consideration.

Very truly yours,
John D. Heffner, PLLC


By: James H. M. Savage
Of counsel

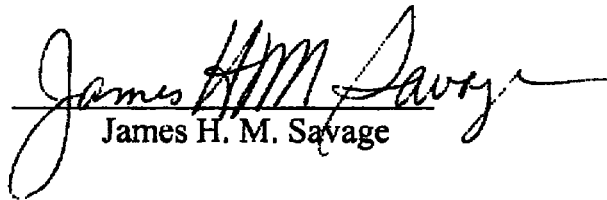
Attorneys for Petitioner
U S Rail Corporation

Att.

cc: Mark D. Cuthbertson (via electronic mail w/att.)
Robert Ryback (via First Class mail w/att.)

CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day by electronic mail a true copy of the within pleading upon counsel for the Town of Brookhaven and by first class mail upon the New York State Department of Transportation.


James H. M. Savage

Dated: May 25, 2010



**Sidney B. Bowne
& Son, LLP**

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February 1, 2010

James H. M. Savage, Esq.
Of Counsel to John D. Heffner, PLLC
1750 K Street, N.W. – Suite 200
Washington, DC 20006

Re: Brookhaven Rail Terminal

Dear Mr. Savage:

I, Paul F. Stevens, of full age, verify that the following statements are true and correct.

1. I am a Licensed Professional Engineer of the State of New York, license #54623.
2. I am an (title) Associate Partner with Sidney B. Bowne & Son, LLP, and maintain an office for the practice of engineering at 235 East Jericho Turnpike, Mineola, New York, 11501.
3. Under my supervision, in the regular course of my professional business, a Site Layout Plan, sheet CP-1 of 1, dated June 15, 2009, revision #6 was prepared for the Brookhaven Rail Terminal in Yaphank, New York.
4. The Site Layout Plan bearing our office title block and information shown in statement 3 has been prepared electronically in PDF format. That PDF is a true and accurate copy of the original plan prepared in our office as described in statement 3.

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of jury under the laws of the United States of America that the foregoing is true and correct.

Sincerely,

Paul F. Stevens, P.E.
Associate Partner

PFS/sm

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VERIFIED STATEMENT OF GERARD T. DRUMM

I, Gerard T. Drumm, of full age, state the following, under penalty of perjury:

1. I am the Chief Financial Officer and General Counsel of Sills Road Realty, LLC ("Sills"). I am responsible for financial and legal matters with respect to Sills and its affiliated companies. I am fully familiar with the facts and circumstances of this matter from my personal knowledge.

2. I submit this verified statement in support of the May 25, 2010 supplemental letter petition of U S Rail Corporation ("U S Rail") for authority to construct and operate the Brookhaven Rail Terminal ("BRT").


3. In or about August 2007 Sills retained Sidney B. Bowne & Son, LLP, civil engineers, to prepare a site plan for the Brookhaven Rail Terminal ("BRT"). The resulting drawing was supplied to the Board as Exhibit C in support of U S Rail's August 8 2008 petition for authority to construct and operate the BRT.

4. Thereafter, the original site plan was modified to incorporate changes resulting from input by various stakeholders including the Town of Brookhaven ("Brookhaven") and the Long Island Power Authority ("LIPA"). The updated site

plan proposes an additional 7,000 feet of track, entirely within the original site footprint, to accommodate rail car storage and bulk commodity transloading. The revised site layout is highly superior to the original insofar as it permits the elimination of a previously proposed grade separated site entrance. The updated plan also provides for a lengthy screening wall, additional landscaping, and an emergency access to the Long Island Expressway service road in response to Brookhaven requests. Utility pole elevations were added after discussions with LIPA's representatives.

5. All changes to the BRT site plan are reasonable and necessary for the safe and efficient operation of the BRT.

6. In behalf of the petitioner and Sills, I respectfully request the Board grant this request to supplement the petition to include the updated June 15, 2009 site plan as Exhibit C-1.



Gerard T. Drumm

Dated: May 25, 2010